

MULTIMEDIA



UNIVERSITY

STUDENT ID NO

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MULTIMEDIA UNIVERSITY

FINAL EXAMINATION

TRIMESTER I, 2021 / 2022 SESSION

UIF2612 – ISLAMIC FAMILY LAW

(All Sections / Groups)

2nd December 2021

Reading Time: 9.15am – 9.30 am

(15 Minutes)

Answering Time: 9.30 am– 12.30 pm

(3 Hours)

INSTRUCTIONS TO STUDENT

1. Students will have **fifteen minutes** during which they may read the paper and make rough notes only in their question paper. Students then have the remaining **three hours** in which to answer the questions.
2. This question paper consists of 4 pages with 5 questions only.
3. Attempt **ALL** questions in **PART A** which are **COMPULSORY** and **TWO** questions in **PART B**. The distribution of the marks for each question is given.
4. Students are allowed to bring into the Examination Hall **CLEAN** and **ORIGINAL** copies of Al Qur'an Translation and Islamic Family Law (Federal Territories) Act 1984. **Students are not allowed to lend or borrow Al Qur'an Translation during the Examination.**
5. Write all your answers in the Answer Booklet provided.

PART A (Answer ALL questions)**QUESTION 1**

In May 2021, Shahida, 15 years old, agreed to tie a knot with Shahmi, a 30-year-old lawyer upon family arrangement. Both families have agreed that the marriage will take place in November, 2021.

In July 2021, while they were busy preparing for the wedding, Shahida's father, Haji Nawi, left for Jakarta, Indonesia to close a business deal. However, during the trip Haji Nawi died due to an accident while on his way to the client's office. Due to the pandemic, the funeral took place in Indonesia. Haji Nawi's father, Haji Khalid was greatly saddened with his son's passing and suffered a heart attack. He died a week later.

Shahida's eldest brother, Junaid aged 23, who is studying in Egypt has joined a militant group there and could not be contacted. Besides Junaid, all her brothers and male cousins are below 12 years old. Apart from that, Shahida has two maternal uncles who live nearby. As the date for her big day is approaching, she is now worry on how can she enter into a valid marriage as required by Islamic and Malaysian laws.

Explain to Shahida on the issue of *wali* and her capacity to marry. Support your answer with the provisions from the relevant statute.

(Total: 25 marks)

QUESTION 2

In Muslims' marriage, the concept of *kafaah* is encouraged to ensure the prospective husband and wife are of equal in status and background. The reason is couples who are compatible with each other may not have much difference in lifestyles and could accept and adjust into each other's life. In some circumstances, the *wali* may refuse to give his consent for the woman's marriage on the ground of *kafaah*. However, a woman's consent to marriage is essential to ensure the validity of the marriage.

Do you agree with the above statement? Justify your point of view based on the principles of Islamic law with reference to the Holy Quran, Hadith and Malaysian case law. Discuss whether the absence of those items render a marriage void from Islamic perspective.

(Total: 25 marks)

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PART B – Answer TWO questions only**QUESTION 3**

Surya and Sulaiman married while they were studying in London, 20 years ago. They were blessed with 2 sons and 2 daughters. Family and friends see them as a loving couple as they always look happy together. From their postings in the Instagram also show that they were romantic couple and seem meant for each other.

Sulaiman is a graphic designer with a monthly salary of RM10,000. He is the only son to his parents who live at a village in Kedah. Since the government had implemented Movement Control Order, his employer has downsized the company scale to reduce the operating cost. Hence, some staff were terminated and for those who are still employed, the salary is subject to 10% cut.

Due to the outbreak, both of them were assigned to work from home. In the beginning, everything went smoothly until Sulaiman met Yasmin in the social media. Most of Sulaiman's time was occupied scrolling and talking on his handphone. He neglected the family and scolded the children when they asked him to do some favour. Consequently, Sulaiman and Surya quarrelled frequently when Surya questioned his responsibility and attention to the family.

Last month, he told Surya that he would like to marry Yasmin. Apply the principles of Muslims' marriage and the relevant statutory provisions to advise the parties on the following: -

- a) The concept of polygamy in Islam and procedures to be followed by Sulaiman in order to enter into a polygamous marriage in Malaysia.

(15 marks)

- b) Whether Sulaiman's application for polygamy would succeed. State your reasons.

(5 marks)

- c) In the event Sulaiman married Yasmin but has not treated Surya fairly, is there any way out for Surya as provided by law?

(5 marks)

(Total: 25 marks)

Continued...

QUESTION 4

Masdi and Nani divorced after 15 years of marriage. During the continuance of the marriage, Nani, a production manager in Maskom International, has spent a large amount of her salary helping Masdi to maintain their family including their three kids, Sazi, Nini and Nabil. Masdi works as a production operator in a factory in Melaka with a low salary. Previously, he has been terminated from work by few employers due to disciplinary and misconduct issues.

Masdi was lucky, as after few years of marriage he was offered a zero down payment scheme in the purchase of a low-cost house in Bandar Seri Utama. In the meantime, he inherited a piece of land upon the death of his father just after he married Nani. Nani spent her money as capital to hire someone to develop the land to plant vegetables. Nani used the income to maintain the family and to pay the fee for the kids' tuition and extra classes.

Nani came to you to seek advice on her entitlement upon divorce. She further informed that the *mahar* has been fully paid upon the marriage. She did not want to claim the right of accommodation during iddah. She also would like to claim for custody of her children. Sazi and Nini are 12 and 9 years respectively, while Nabil is only 6 months old and still breastfeeding. However, Masdi contended that he and his mother shall take care of Nabil since he is his only son and will be the actual legal heir.

Solve Nani's legal problems on her ancillary and custody rights upon divorce by referring to the appropriate laws from relevant sources.

(Total: 25 marks)

QUESTION 5

Aini and Ismail were married for 7 years and were blessed with 2 children. Since Covid-19 pandemic started, they suffered critical financial difficulties. They ended up quarrelling and fighting over many issues. One day, as they were heated with arguments from early morning, Ismail pronounced to Aini, "I divorce you with three talaq and get lost!"

Aini who was very shocked upon Ismail's pronouncement, packed her things and went back to her parents' house. Ismail regretted with what he has done since he still loves Aini and the children. Since then, Ismail kept calling her and asked her to reconcile. Aini told him that there will be no chance for them to reunite since the divorce is irrevocable.

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Ismail hired Ridzuan to marry Aini with certain conditions. Ridzuan agreed to marry Aini but disagreed to divorce her later. Ismail felt upset and tried to resolve the matter. Solve the followings by applying relevant laws: -

- a) Ismail would like to know the status of the divorce.

(12 marks)

- b) In the event, there was no pronouncement of divorce from Ismail but Aini felt that she did not love Ismail anymore due to disagreement over many issues and she could no longer proceed with the marriage, whether there is any way for her to terminate the marriage.

(8 marks)

- c) If Ismail died during Aini's period of iddah from the three talaq divorce, whether Aini is still entitled to inherit Ismail's estates?

(5 marks)

(Total: 25 marks)

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